

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Joint Application of SBC Communications Inc. ("SBC") and AT&T Corp. ("AT&T") for Authorization to Transfer Control of AT&T Communications of California (U-5002), TCG Los Angeles, Inc. (U-5462), TCG San Diego (U-5389), and TCG San Francisco (U-5454) to SBC, Which Will Occur Indirectly as a Result of AT&T's Merger With a Wholly-Owned Subsidiary of SBC, Tau Merger Sub Corporation.

Application 05-02-027  
(Filed February 28, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REGARDING PROCEDURAL ARRANGMENTS  
FOR EVIDENTIARY HEARINGS**

This ruling sets forth procedures and preliminary scheduling arrangements in anticipation of the prehearing conference scheduled for July 29, 2005 and evidentiary hearings to begin on August 8, 2005, in this matter. The preliminary information called for in this ruling shall be taken into account in finalizing the schedule at the July 29<sup>th</sup> PHC for the order of presentation of witnesses, and to identify parties that plan to conduct cross-examination. The PHC will also be the opportunity to address any additional procedural issues in preparation for the evidentiary hearings.

**A. Schedule for Cross-Examination**

In the interests of making the most efficient use of hearing time, an assessment is needed of the extent of cross-examination that parties seek to conduct. All parties that intend to conduct cross-examination are hereby

directed to produce estimates of the length of their planned cross-examination. Separate estimates shall be presented for each witness that a party seeks to cross-examine. Parties shall provide as accurate an estimate as possible.

The Joint Applicants shall provide to the ALJ by email, with a copy to the service list, an estimate of cross-examination time separately for each individual witness sponsoring testimony by opposing parties. Joint Applicants' cross-examination estimates shall be due on or before July 19, 2005. Parties other than the Applicants shall provide cross-examination estimates to the ALJ, with a copy to the service list, on or before July 26, 2005. Additional time for presenting estimates is provided to parties other than Applicants since they received Applicants' rebuttal testimony only on July 8.

In presenting estimates, parties should keep in mind that a maximum of ten hearing days have been allocated for the entire proceeding. Parties sponsoring similar positions on issues should confer and coordinate to eliminate potential duplication or overlap in cross-examination estimates. Parties should also consider ways to minimize cross-examination through written admissions of stipulated fact, or through admission of relevant excerpts from depositions. Parties should also explore the potential for agreeing mutually to limit cross-examination or to admit certain exhibits by stipulation without cross-examination. "Friendly" cross-examination of witnesses will not be permitted.

#### **B. Witness Scheduling Constraints**

Parties shall provide notice to the ALJ by e-mail on or before July 19, 2005 concerning any scheduling constraints relating to the appearance of parties' sponsoring witness to provide oral testimony. If no notice is provided indicating that a constraint exists for a particular witness, it will be assumed that witness is

generally available to appear for oral testimony within the dates scheduled for evidentiary hearings of August 8 through 19.

**C. Deadline for Filing Motions to Strike**

If any party seeks to file a motion to strike any testimony or supporting exhibits previously served in this proceeding, they shall do so no later than July 19, 2005. Responses to any such motions to strike shall be due within three business days after the motion is filed.

**D. Procedures for Distribution of Exhibits in the Hearing Room**

Each party seeking to introduce into the record previously served exhibits of a sponsoring witness during evidentiary hearings shall provide **ONE** copy to the assigned ALJ and **ONE** copy to the court reporter at the time the witness takes the stand. For exhibits not previously served, each party shall provide **TWO** copies to the ALJ and **ONE** copy to the court reporter. The party shall produce sufficient copies of each exhibit available for handing out to parties present in the hearing room. Parties should make sure that the pagination of the testimony and exhibits introduced as official copies in the hearing room agree with the pagination of copies that were previously served on parties. Such consistency will avoid confusion in referencing excerpts from testimony during cross-examination.

Exhibits shall comply with Rule 70 of the Commission's Rules of Practice and Procedure. Please especially note that the title sheet of the exhibit must have space to accommodate the Commission's Exhibit Stamp. Exhibits shall be marked for identification upon introduction, but motions to admit exhibits into evidence will be taken up at the end of the witness' oral testimony.

Any exhibit to be used for cross-examination purposes should be provided in advance to counsel for the party to be cross-examined, or at the latest, on the beginning of the day on which the witness is due to testify (copies may need to be sent by overnight mail or facsimile). Each cross-examination exhibit should

have a cover sheet with a descriptive title of what the cross-examination exhibit is. While some potential cross-examination exhibits may only come to the parties' attention after the hearing has started, and short notice may be necessary in some instances, the parties are strongly encouraged to cooperate in observing this procedure and not to use "surprise" as a litigation strategy, except when used for impeachment purposes. To economize hearing time, if multiple exhibits are being sponsored by a witness or being introduced for cross-examination of the witness, the exhibits should be distributed simultaneously rather than sequentially as they are formally introduced.

#### **E. Objections to Admission or Use of Exhibits**

If any party's counsel intends to object to the introduction, admission, or use of a cross-examination exhibit, the counsel shall announce its objection as early as possible, clearly setting forth the basis for any such objection. Objection should be made early enough to allow time, as needed, for deliberation and ruling without delaying or disrupting the progress of the proceeding. As deemed necessary, oral argument on such objections may be permitted.

#### **F. Corrections to Exhibits**

Any corrections or modifications to exhibits should be made by the witness in writing on the copies of exhibits distributed in the hearing room in advance of the witness taking the stand to testify. In the interests of economy, witnesses should avoid taking up hearing time making corrections to exhibits as part of oral direct examination.

#### **G. Marking of Confidential Exhibits**

Exhibits containing confidential information should bear the appropriate exhibit number and be followed by the letter "C." A redacted copy of such an exhibit shall also be provided for the public record. For example, the confidential

version of Exhibit 1 would be marked Exhibit 1-C, and the redacted (public) version of the document would be marked Exhibit 1.

#### **H. Sealing of the Transcript for Confidential Oral Testimony**

To the extent that a counsel intends to elicit cross-examination that would involve confidential information, the counsel should provide advance notification to the opposing counsel and the ALJ so that provision can be made to conduct that portion of the oral testimony under sealed transcript. To the extent such a situation arises, the hearing room will be cleared of any individuals not authorized to have access to such confidential information. In the interests of an efficient hearing process, parties are urged to frame their cross-examination so that no confidential information needs to be disclosed in oral testimony. Yet, to the extent that sealing of the transcript becomes necessary, parties should seek to consolidate their cross-examination relating to confidential information in order to provide for a coherent and efficient transcript record.

**IT IS RULED** that parties are directed to comply with the above-authorized deadlines and hearing room procedures in preparation for orderly and efficient evidentiary hearings in this proceeding.

Dated July 13, 2005, at San Francisco, California.

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/s/ THOMAS R. PULSIFER  
Thomas R. Pulsifer  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Procedural Arrangements for Evidentiary Hearings on all parties of record in this proceeding or their attorneys of record.

Dated July 13, 2005, at San Francisco, California.

/s/ TERESITA C. GALLARDO  
Teresita C. Gallardo

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.